

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.2304 of 2015 (O&M)

Date of decision: 17.02.2016

Ram Lal

.....Petitioner

Versus

Chief Secretary to Government of Haryana and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

Present: Mr. Aftab Singh Khara, Advocate,
for the petitioner.

Mr. Keshav Gupta, AAG, Haryana.

None for respondent Nos. 5 and 7.

Mr. Ajay Kamboj, Advocate,
for respondent No.6.

Ritu Bahri, J.

The petitioner is seeking direction to the respondents to consider his legal representation dated 09.12.2014 (Annexure P-1) seeking appointment in the Home (Police) Department in terms of the appointments given to respondent Nos. 5 as Deputy Superintendent of Police and respondent Nos. 6 & 7 as Sub Inspectors in Haryana Police against Sports Quota for climbing the Mount Everest.

Petitioner is domicile of Haryana and started the expedition for

climbing the Mount Everest on 31.03.2013 along with respondent Nos. 5

and 6. On 21.05.2013, the petitioner flagged the National Flag at Mount Everest peak and became the youngest person of State of Haryana to do so and thereafter, he came back to India on 01.06.2013. He was given commendation certificate (Annexure P-4) from Ambassador of India at Kathmandu on 27.05.2013 for climbing Mount Everest on 25.03.2013. He was also awarded with 'Bharat Gaurav Puraskar' (Annexure P-5) by National Adventure Club (India), Chandigarh on 10.02.2014, for showing extraordinary resolve and exemplary courage during the Mount Everest Expedition-2013.

The petitioner belongs to economically weaker section of the Society and his father is a labourer. With the help of various organizations and high profile individual from Tohana, he was able to meet the expenses of Rs.25 lacs, which was required to scale the highest mountain of Mount Everest. He managed to train himself at Atal Bihari Vajpai Institute of Mountaineering & Allied Sports from Government of Himachal Pradesh from 01.09.2012 to 26.09.2012. As per document (Annexure P-8), the petitioner continued his expedition by climbing Mountain Elbrus (5642 meters) via south route on 17.07.2014. He completed his schooling from Bajrang Model School. He also completed in sports at various levels i.e. Boxing, Pistol Shooting 10 mm, Air Rifle Shooting at National level, Kabaddi, Athletics, Waterpolo on his own. Respondent Nos. 6 and 7 were in the same batch at the time of climbing Mount Everest along with the petitioner. Therefore, he is seeking direction to the respondents to consider him in terms of the policy dated 06.01.2009 (Annexure P-2) issued by Home (Police) Department, whereby 6% of the total posts of DSPs were to be reserved for outstanding sports persons of Haryana State, who bring

to appointment of respondent No.5 as DSP in Police Department, the petitioner has gathered information (Annexure P-11) under the Right to Information Act, 2005 and found that she (respondent No.5) has been appointed on the basis of conquest of Mount Everest on 22.05.2010. Vide information dated 16.09.2014 (Annexure P-12), he was further informed that respondent Nos. 6 and 7 (who had accompanied him in the same batch for Mount Everest Expedition) were appointed as Sub Inspectors by the State Government vide letters dated 16.07.2014. Earlier, they were appointed in the Police Department as lady constables and thereafter, were inducted as Sub Inspectors after the mountaineering expedition. The petitioner has referred to a decision taken by the Council of Ministers in a meeting held on 02.05.2013 (Annexure P-13), whereby it was decided to give one time cash of Rs.5 lacs to those sports persons of Haryana, who have successfully scaled Mount Everest since 2005, subject to the condition that they were not Government employees/have not been provided Government job on this account. As per information dated 13.10.2014 (Annexure P-15) received under the RTI Act, the petitioner could not be extended the benefit of giving a job in view of policy dated 15.07.2014, according to which, the mountaineering sports were not to be included for employment. However, respondent Nos. 5 to 7 have been given appointments by the Police Departments. Accordingly, the petitioner is seeking appointment in parity with respondent Nos. 5 to 7.

In their written statement, respondent Nos.1 and 2 have taken a stand that the similar issue came up for consideration before this Court in CWP No.21872 of 2010 (Neha Rathee Vs. State of Haryana and others), which was dismissed vide order dated 08.12.2010 by observing that since

interference that it is capable of some mischief. It is for the State to see the achievement and make appointment to recognize the achievement of a particular sports person and Court will have hardly any role. In order to encourage sports in Haryana, the State Government is giving cash awards to the winners of Gold, Silver and Bronze Medals respectively in Olympic games, Asian Games and Commonwealth Games. Vide notification dated 06.01.2009, the State Government has provided 6% of the total posts of Deputy Superintendent of Police shall be reserved for outstanding sportspersons of Haryana who win a Gold, Silver or Bronze medal in Olympic Games or those sportspersons who bring extraordinary laurels to the country and the State of Haryana. As per Haryana Police Service Rules, 2002, the State Government is competent to relax any of the provisions of these rules with respect to any class or category of persons. Rule 18 of the said Rules is reproduced as under:-

“Where the Government is of the opinion that it is necessary or expedient to do so, it may, be order, for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.”

It has been further stated that the case of Ms. Mamta Sodha-respondent No.5 was sent to the State Government by the Director General of Police vide letter dated 28.06.2010. After having been examined her case, it was revealed that mountaineering was not included in the category of sports under the policy of the State Government. Thereafter, the Sports Department accorded its concurrence and one post was taken out of the purview of HPSC. Accordingly, she was appointed as DSP vide appointment letter dated 11.08.2010. The Council of Ministers approved the relaxation for appointment of Ms. Mamta Sodha as DSP in its meeting

With regard to the case of Ms. Kanta Devi and Ms. Anita Devi-respondent Nos.6 and 7, it is stated that they had already been enrolled as constables on 16.04.2008 in the Haryana Police. Thereafter, a proposal dated 10.07.2014 was received from the office of Director General of Police, Haryana, wherein by referring to their outstanding achievement of climbing Mount Everest and other achievements in the field of mountaineering, it was recommended to recruit them as Sub Inspectors under the sports quota. The Council of Ministers in its meeting held on 12.07.2014 granted approval and thereafter, they were appointed as Sub Inspectors in the Haryana Police as a special case. It was further stated that no representation from the petitioner was received and hence, no recommendation was made for his appointment in the Police Department.

In a separate written statement filed on behalf of respondent No.3, it is admitted that respondent No.5 was appointed on the post of Deputy Superintendent of Police by the Home Department, Haryana, upon a suo moto decision of the Council of Ministers dated 16.06.2010 (Annexure R-III) and Rs.21 lacs were awarded to respondent No.5 as per the order dated 12.08.2011 passed by the Hon'ble Chief Minister, Haryana. At the same time, it is being reiterated that there is no provision in the policy dated 20.08.2013 (Annexure R-I) and 15.07.2014 (Annexure P-14) for providing out of turn appointment to the Mountaineers. In the absence of any policy, the petitioner was awarded Rs.5 lacs by the Department of Sports and Youth Affairs as per Annexure P-13.

After going hearing learned counsel for the parties and going through the contents of the petition and written statement, this Court is of the view that the present petition deserves to be allowed. As per policy

benefit of appointment to the mountaineers. However, at the same time, in the case of Ms. Mamta Sodha-respondent No.5, a sum of Rs.21 lacs had been awarded by the State Government and the Chief Minister had desired that a separate scheme for giving cash award in such activities be prepared by the department. Thereafter, the Council of Ministers had approved the appointment of Ms. Mamta Sodha to the post of DSP on 16.06.2010 (Annexure R-III), who had climbed the Mount Everest. Hence, in the case of Ms. Mamta Sodha, on the one hand, she was appointed as DSP vide appointment letter dated 11.08.2010 and on the other, she was awarded Rs.21 lacs as per order dated 12.08.2011 (Annexure R-II). However, in the case of the petitioner, he was awarded only a sum of Rs.5 lacs as per decision dated 02.05.2013 (Annexure P-13), account of the fact that he had successfully scaled the Mount Everest on 21.05.2013 and had flagged the National Flag and had become the youngest person of the State of Haryana to do so. The petitioner, who is 23 years of age, has to be given a similar treatment as has been extended by the State authorities to respondent Nos. 5 and 6. The petitioner was given commendation certificate (Annexure P-4) from the Ambassador of India at Kathmandu on 27.05.2013 and was also awarded with 'Bharat Gaurav Puraskar' (Annexure P-5) by National Adventure Club (India) on 10.02.2014. The petitioner belongs to economically weaker section of the society and various organizations had come forward to help him in order to meet the expenses of Rs.25 lacs, which was required to scale the highest mountain of Mount Everest. The stand taken by the respondents that as per policy 20.08.2013 (Annexure R-1), there is no provision for giving any benefit of appointment to the mountaineers, cannot be a ground to reject the claim of the petitioner, as Ms.

DSP on the basis of conquest of Mount Everest on 22.05.2010. Apart from this, respondent No.5 was also given a cash award of Rs.21 lacs for the said achievement. Hence, on the ground of parity, the claim of the petitioner should have been accepted by the respondents.

In view of the above discussion, this petition is allowed and a direction is given to the respondents to consider the claim of the petitioner and thereafter, give him appointment along with cash award at par with Ms. Mamta Sodha-respondent No.5, within a period of three months from the receipt of certified copy of this order.

17.02.2016
ajp

(RITU BAHRI)
JUDGE